

HUMAN RESOURCES MEMORANDUM 15-020		DATE ISSUED: 09/22/2015
SUBJECT: Decertification Campaign		REFERENCE: PML 2015-026
TO: Personnel Liaisons, Attendance Clerks, DGS Managers and Supervisors		SUPERCEDES:

PLEASE ENSURE THAT THIS INFORMATION IS SHARED WITH YOUR EMPLOYEES

Purpose The California Department of Human Resources (CalHR) received notice from an employee organization (challenger) of its effort to decertify an exclusively recognized state employee organization (incumbent employee organization). CalHR issues the following reminders to state departments about neutrality and access rules during a decertification campaign.

Strict Neutrality Please remind your department's managers, supervisors, and other excluded employees of their responsibility to uphold the state's position of strict neutrality during a decertification effort. The phrase "all managers, supervisors, and other excluded employees" includes employees who are serving in out-of-class assignments, training and developments assignments, in an "acting" capacity, or an employee holding any type of appointment as a manager, supervisor or excluded employee.

As an employer, the state must maintain an entirely neutral position as to the outcome of any decertification effort. The choice of an exclusive representative (or choosing "no representation") is a matter for employees to decide. Managers, supervisors, and other excluded employees are cautioned not to make any statements or otherwise express favoritism or bias about either an incumbent employee organization or a challenger in regards to a decertification effort. The state could be exposed to allegations of an unfair labor practice if a representative of state management expresses or takes action that reflects support or bias toward or otherwise participates in a decertification effort.

Worksite Access Generally, any employee organization attempting decertification is entitled to meaningful access to state employees for purposes of organizing, as long as such access is during non-work time and in non-work areas accessible to the public. Non-work time is defined as lunch/meal periods, regularly scheduled rest periods, and time before and after work. Generally, non-work areas are defined as cafeterias, building foyers and other locations accessible to the general public. This means a challenger may visit the worksite and meet with employees during non-work time and in non-work areas consistent with each department's access policies.

Campaign literature may generally be left in places where employees congregate as long as these areas are accessible to the general public, such as cafeterias. The use of bulletin boards is subject to your own departmental policy consistent with the non-work time and non-work area requirements described above, however, such use may not diminish the bulletin board space that exists for the exclusive use of an incumbent employee organization. The internal or external use of your department's internal mail systems, email systems, electronic bulletin boards, etc. by a challenger or your department's employees are subject to your department's policies e.g. information security, minimal and incidental use, etc. Each incident of use should conform to existing policies that govern the type of use being exercised. However, any material mailed to individual employees at the employee's work address is to be stamped and processed as any other first class mail to the department's employees are handled. Departments are not to distribute bulk mailings of decertification materials on behalf of a challenger or the incumbent employee organization.

The statements above are general principles applicable during a decertification effort. Due to the particular business operations, policies, and needs of each department, specific requests must be assessed on a case-by-case basis. As such, any specific requests for access your department receives from a challenger must be directed to CalHR's Labor Relations Division immediately.

Questions

If you have any questions regarding this memorandum, please contact your assigned Labor Relations Specialist.

ANGIE BOLDRINI, Personnel Officer
Office of Human Resources

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